IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 10TH AUGUST 2007 / 19TH SRAVANA 1929

Bail Appl..No. 4860 of 2007()

AGAINST THE JUDGEMENT/ORDER IN BA.6761/2005 Dated 15/11/2005
LP.7/2006 of J.M.F.C.-II,PERINTHALMANNA
CRIME NO.96/02OF MELATTOOR POLICE STATION

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PETITIONER/ACCUSED

MUSTHAFA KAMAL, S/O. MUHAMMADALI,
PANDARAPETTY HOUSE, VENGOOR P.O.,
PATTIKKAD VIA., MALAPPURAM.

BY ADV. SMT.K.V.RESHMI

RESPONDENTS: COMPLAINANT/STATE

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1. THE S.I. OF POLICE,
MELATTOOR POLICE STATION. (CRIME NO.96/2002)

2. THE STATE OF KERALA, REP. BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 10/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 4860 OF 2007

Dated this the 10th day of August, 2007

ORDER

The petitioner faces indictment in a prosecution for offences punishable, inter alia, under Secs.324 read with Sec.149 of the IPC. All offences are bailable, it is submitted. Final report has been filed. Cognizance has already been taken. Consequent to the non-appearance of the petitioner, the learned Magistrate has issued coercive processes against the petitioner. The petitioner finds such warrant of arrest issued by the learned Magistrate chasing him.

2. According to the petitioner, he is absolutely innocent. His absence earlier was not wilful; but was due to reasons beyond his control. He is now willing to surrender before the learned Magistrate and co-operate with the court for the expeditious disposal of the case. But the petitioner apprehends that inasmuch as case against him is transferred to the list of

Long Pending Cases, his application for regular bail may not be considered by the learned Magistrate on merits in accordance with law and expeditiously. It is, in these circumstances, that the petitioner has come to this Court for a direction to the learned Magistrate to release him on bail when he appears before the learned Magistrate.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

4. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned

Magistrate must proceed to pass appropriate orders on merits and expeditiously.

5. Hand over a copy of this order to the learned counsel for the petitioner.

Sd/-

(R. BASANT, JUDGE)

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//true copy//

P.S. to Judge